

REMARKS

Claims 51-70 are pending in this application. In an office action dated 08/12/2009, Examiner has rejected claims 51-70 for 103(a) obviousness reasons over Treyz in view of Lineham. These 103(a) rejections are responded to as follows:

Applicant has amended claims 51, 63 and 68 to better define the scope of the invention in view of Examiner's comments in the office action.

2. Examiner has rejected claims 51 to 70 under the obviousness rejection USC §103(a) as being unpatentable over Treyz et al and in view of Linehan.

Examiner states that in Treyz the cell phone is also used for a financial transaction as it is in the claims of this invention, in spite of the differences where in Treyz, the use of a mobile wireless device/cell phone is to store customer bankcard data and transfer that to a retail merchant terminal at the time of purchase payment transaction, whereas in claim 51, element (a) and (b) teach a merchant sales terminal with means to wirelessly transmit a terminal identification and a payment amount for a specific sales transaction and a wireless device of the customer with means to receive from the sales terminal, the terminal identification and the payment amount specific to the sales transaction.

In contrast, in claim 51, the use of mobile wireless device/cell phone is different and distinguishable. While both in Treyz and in claim 51, the cell phone use is for conducting "a financial transaction", however, that is where, the similarity stops. These two uses of the cell phone are inherently different.

These two uses of the wireless device/cell phone, at the time of retail sales payment transaction, as in Treyz and claim 51 are inherently different and distinguishable for the following reasons.

a. In Treyz, bankcard and or account information data is first loaded into the Treyz cell phone by various Treyz means. Then that bankcard and or account information is being transferred from the Treyz cell phone to the Treyz sales terminal. Without first loading the bankcard or account information, the Treyz cell phone is unable to conduct the sales transaction.

b. Treyz by transferring the bankcard or account information to the merchant sales terminal, transfers private and id theft sensitive data to the merchant computer systems for the very high probability of it being stolen from there based on a large number of news items for theft of such data from merchant systems.

c. Once the Treyz cell phone transfers the bankcard data to the merchant by Treyz cell phone, it is treated no different by the merchant sales terminal than bankcard data transferred by any number of prior art ways such as swiping a bankcard at the retail terminal for processing a payment transaction.

d. The Treyz cell phone, like the other prior art forms of payments creates a cost burden and a business liability risk for the merchants and their sales systems for receiving, storing, and safeguarding the customer private id theft sensitive data.

e. In contrast in claim 51, the bankcard and or account information is not loaded into the cell phone, as there is no need for it in the cell phone. Second, as a consequence the bankcard and or account information is not transferred to the sales terminal, at the time of the transaction thus not transferring private id theft sensitive data to the merchant sales systems.

f. In contrast, In claim 51, instead of transferring private id theft sensitive data, to merchant systems, the cell phone receives from the sales terminal, the merchant terminal id and payment amount.

g. As in claim 51, cell phone use is directed to security and privacy of bankcard and account information by not storing such data in the cell phone and by not transferring such private data and keeping it out of from the merchant systems themselves, from where it has been subjected to theft. Whereas, in Treyz does not teach these features.

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For the reasons as above, Treyz does not teach or suggest features of claim 51. Applicant does not understand why the examiner is unable to see this inherent difference in these two types of financial transactions with a cell phone. This difference and distinction is as clear as it can be made by reading Treyz art and reading claim 51.

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Applicant requests the examiner to review this distinction for the purpose of applying the Graham V. Deere obviousness analysis. For those with ordinary skill in the Treyz art at the time, there were not those with cognizance of security issues related to theft of data from merchant systems. Treyz ordinary skill in the art is directed to loading bankcard and account data by various means and transferring such data to a merchant sales terminal at the time of the sales transaction. That Treyz ordinary skill in the art at that time is not on preventing theft of Id theft data from the merchant systems.

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To make this distinction clear from the prior art, Applicant has amended claim 51, to include the limitation that the wireless device does not receive, store, and transmit customer bankcard data.

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Same arguments are applicable to independent claims 63 and 68. These features of claims 51, 63 and 68 are neither taught nor fairly suggested by Treyz.

Linehan teaches four party security protocols for online payment transactions between the customer computer, customer's card issuing bank, merchant computer, and merchant acquiring bank.

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These two prior art do not teach singly or in any combination, features as in independent claims 51, 63 and 68, for maintaining the privacy and security of customer

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private data from the merchant computer system, while making payment transactions at a merchant sales terminal.

5 Therefore, the system claim 51, method claim 63 and system claim 68 are not obvious over the cited prior art. Like wise the dependent claims are not obvious either over these cited arts.

10 To make this distinction clear from the prior art, Applicant has amended claim 63 and 68, to include the limitation that the wireless device does not receive, store, and transmit customer bankcard data.

CONCLUSION

In conclusion, Applicant respectfully asserts that claims 51 to 70 are patentable for the reasons set forth above, and that the application is now in a condition for allowance.

5 Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 310-540-4095 for any reason that would advance the instant application to issue.

Dated this the November 3, 2009

10 Respectfully submitted,



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